

# EXHIBIT D

*Hadnott v. Kelly, et al.*  
07 C 6754



**City of Chicago**  
**Richard M. Daley, Mayor**

**Department of Law**

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<http://www.cityofchicago.org>

**Via messenger**

October 28, 2009

Irene K. Dymkar, Esq.  
300 West Adams Street, Ste. 330  
Chicago, Illinois 60606

**Re: Hadnott v. City of Chicago, et al. 07 C 6754**

Dear Counsel:

Pursuant to our conversation yesterday (wherein we began a discussion regarding negotiating Defendants' submission of the bill of costs and attorneys' fees related to the motion practice pertaining to issues springing from Defendant Kelly's first deposition), enclosed please find a memorandum of law that supports Defendants' position that they are entitled to attorneys' fees at a market rate. (*Foryoh v. Kelly*, 06 C 1226, D.E. 76).

If after reading this memorandum you still do not believe that the Defendants are entitled to receive attorneys' fees at a market rate, please let us know.

In addition to the issue of attorneys' fees, we discussed yesterday the fact that you believe the extent of litigation as covered by the Defendants' submission for costs and attorney's fees was overly broad, and that it was your belief that the Court simply discussed the awarding for fees and costs specifically for the filing of the protective order. As stated, Defendants disagree with this position, as Plaintiffs filed several motions to reconsider Judge Schenkier's rulings on these issues, which Defendants were then forced to litigate as well.





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If Plaintiffs do not come off the position that Defendants are merely entitled to a few hundred dollars, as enumerated in your previous correspondence (and indirectly in today's conversation), then the issue of whether Defendants' attorneys should be able to recover a market rate is moot for purposes of negotiation.

I would ask that you review the enclosed memorandum and inform us whether Plaintiffs have revised their positions pertaining to the market rate for attorneys' fees, as well as the litigation encompassed by the Court's order.

Please note that this correspondence is also being sent with reference to *Swanigan v. Trotter, et al.*, 07 C 4749, as the Defendants who were dismissed out on summary judgment also plan on filing a motion for attorneys' fees (as you know, they have already filed a bill of costs pertaining to the litigation). If there is going to be the same issue with regards to the Plaintiff in *Swanigan* objecting that the dismissed Defendants are entitled to attorneys' fees at market rates, we will need to know this.

I would ask that you inform us of Plaintiffs' positions on these issues no later than Monday, November 9<sup>th</sup>.

Thank you in advance for your prompt attention to these matters.

Yours truly,

Ashley C. Kosztya  
Assistant Corporation Counsel  
(312) 744-2826

cc: Liza M. Franklin  
Chief Assistant Corporation Counsel  
Counsel for Defendants in *Swanigan v. Trotter, et al.*, 07 C 4749

Alec McAusland  
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